

Remarks and Arguments

Applicant has carefully considered the Office Action dated June 22, 2006 and the references cited therein. Applicant respectfully requests reexamination and reconsideration of the application.

Claim 10-21, 24-29 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-5, 10-13, and 15 of U.S. Patent No. 6,623,491. Applicant again acknowledges the examiner's rejection of selected claims under the judicially created doctrine of obviousness type double patenting and respectfully requests that such objection be held in abeyance until an indication allowable subject matter.

Notwithstanding Applicant's prior amendments to the claims, claims 10-18, 20-25 and 27-29 remain rejected under 35 USC 102(b) as being anticipated by US Patent 5,279,546, Mische et al., hereafter Mische, already of record. In setting forth the rejection, the Examiner has abandoned the prior analogy of the claimed inner member being analogous to inner catheter 72 of Mische and the claimed outer member being analogous to the outer catheter 70 of Mische, but instead now alleges that the claimed inner member and outer member are analogous to the concentric walls of outer catheter 70 of Mische.

Claim 10 has been amended and now specifically recites a treatment system comprising an outer member and an inner member with "the outer member and the inner member *axially slideable relative to one another*" (claim 10, lines 6-7; *emphasis added*). Using the Examiner's latest analogy, the concentric walled outer catheter 70 of the Mische is not axially slideable relative to itself. Accordingly, Applicant respectfully asserts that claim 10, and its respective dependent claims are not anticipated by Mische. Claims 20 and 27 have been amended to include limitations similar to claim 10 (claim 20, lines 7-8; claim 20, lines 3-4) Accordingly, claims 20 and 27, as well as their respective dependent claims, are likewise believed not anticipated by Mische for at least the same reasons as claim 10, as well as for the merits of their own respective limitations.

Claims 10-29 stand rejected under 35 USC 102(e) as being anticipated by US Patent 6,786,918, Krivoruchko et al., hereafter Krivoruchko, already of record. Claim 10 has been further amended and now specifically recites "a discharge opening in fluid communication with said fluid passage and extending through a wall of said outer member to permit fluid flow from the port and the fluid passage to the body lumen" (claim 10, lines 19-21). Support for this limitation can be found in the subject specification (page 7, lines 3-5). The Examiner has not shown where in Krivoruchko there is disclosed, taught or suggested a discharge opening that permits fluid flow from a fluid channel passage into the body lumen, as now claimed. Accordingly, Applicant respectfully asserts that claim 10, and its respective dependent claims are not anticipated by Krivoruchko. Claims 20 and 27 have been amended to include limitations similar to claim 10 (claim 20, lines 16-18; claim 20, lines 15-17) Accordingly, claims 20 and 27, as well as their respective dependent claims, are likewise believed not anticipated by Krivoruchko for at least the same reasons as claim 10, as well as for the merits of their own respective limitations.

In a light of the previously described amendments, Applicant respectfully asserts that claims 10, 20 and 27, as well as their respective dependent claims, are not anticipated by either Mische or Krivoruchko.

Applicants believe the claims are in allowable condition. A notice of allowance for this application is solicited earnestly. If the Examiner has any further questions regarding this amendment, she is invited to call Applicant's attorney at the number listed below. The Examiner is hereby authorized to charge any fees or credit any balances under 37 CFR §1.17, and 1.16 to Deposit Account No. 02-3038.

Respectfully submitted,

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